

Message Text

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PAGE 01 PEKING 03007 230217Z
ACTION EA-12

INFO OCT-01 ISO-00 CIAE-00 INR-07 NSAE-00 L-03 CPR-01
/024 W

-----130130 230513Z /11

R 230102Z DEC 77
FM USLO PEKING
TO SECSTATE WASHDC 9466
INFO AMEMBASSY CANBERRA
AMCONSUL HONG KONG

C O N F I D E N T I A L PEKING 3007

FOR EA/PRCM

E.O. 11652: GDS
TAGS: CGEN CH AS
SUBJ: AUSTRALIAN-PRC CONSULAR AGREEMENT

1. ACCORDING TO AN AUSTRALIAN EMBASSY OFFICER, AUSTRALIA IS "WITHIN A WORD" OF CONCLUDING NEGOTIATIONS ON A CONSULAR AGREEMENT WITH THE CHINESE. WHAT ORIGINALLY BEGAN TWELVE MONTHS AGO WITH A VAGUE WRITTEN PRC PROPOSAL TO "CONDUCT CONSULAR RELATIONS IN ACCORDANCE WITH ESTABLISHED INTERNATIONAL PRACTICE" COUNTERED BY AN ULTRA-SPECIFIC AUSTRALIAN DRAFT OF SEVERAL DOZEN ARTICLES HAS NOW BOILED DOWN TO A 13-ARTICLE AGREEMENT IN WHICH THE CHINESE DID MOST OF THE GIVING AWAY.

2. THE TWO PRC OBJECTIONS WHICH HAVE DELAYED A FINAL AGREEMENT HAVE BOTH BEEN OVERCOME. THE FIRST WAS A CLAUSE IN THE ARTICLE CONCERNING CONSULAR ACCESS TO NATIONALS OF THE SENDING STATE, WHICH FOR THE CHINESE, WAS TO GUARANTEE ACCESS IN ALL CASES. THE AUSTRALIANS REFUSED TO ACCEPT THIS, INSISTING THAT CONSULAR ACCESS COULD NOT BE GRANTED IF THE SENDING STATE NATIONAL OPPOSED IT. THE SECOND WAS THE PRC RELUCTANCE TO GRANT IMMUNITY TO CONSULATE STAFF MEMBERS, RESTRICTING IMMUNITY SOLELY
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TO "CONSULAR OFFICERS".

3. IN A DECEMBER 9, 1977 PRC MFA DRAFT SUBMITTED TO THE AUSTRALIAN EMBASSY THE CHINESE DROPPED THEIR OBJECTION TO THE LIMITATION ON CONSULAR ACCESS. THE AUSTRALIANS WILL SOLVE THE SECOND PROBLEM, IF IT EVER BECOMES A PROBLEM, BY SUBMITTING A

NOTE TO THE CHINESE STATING THE AUSTRALIAN DEFINITION OF "CONSULAR OFFICER." THE CHINESE HAVE ALREADY RESPONDED BY SAYING THAT IT IS INCONSISTANT WITH NORMAL PRACTICE TO GRANT SUCH IMMUNITY TO CONSULATE STAFF, BUT THAT IN ANY EVENT, THE MATTER COULD BE DISCUSSED AT THE APPROPRIATE TIME WITH THE LOCAL OFFICIALS CONCERNED. THE AUSTRALIANS HAVE ALREADY ASKED CANBERRA FOR A FINAL DRAFT AGREEMENT, AND THE SIGNING OF A FORMAL AGREEMENT IS EXPECTED VERY SOON.

4. THE PRC HAS ASKED FOR A CONSULATE IN SYDNEY TO BE STAFFED, ACCORDING TO A SLIP BY ONE OF THEIR NEGOTIATORS, BY PERHAPS TEN OR SO OFFICIALS PROVIDED BY THEIR EMBASSY IN CANBERRA AND FROM THE MFA. IN THE AGREEMENT THE CHINESE OFFERED THE AUSTRALIANS A CONSULATE IN EITHER SHANGHAI OR CANTON, WITH CONSULAR DISTRICTS TO BE DETERMINED AT A LATER DATE THROUGH MUTUAL CONSULTATIONS. THE AUSTRALIANS ADMIT, HOWEVER, THAT THEY HAVE NO DESIRE WHATSOEVER TO SET UP ANOTHER OFFICE IN THE PRC.

5. COMMENT: THE PRC DESIRE FOR A CONSULAR AGREEMENT SEEMS TO HAVE LITTLE TO DO WITH THEIR DESIRE TO PROTECT PRC CITIZENS IN AUSTRALIA. THEIR PRIMARY PURPOSE IS TO ESTABLISH A POST IN SYDNEY AND FOR THIS REASON, THEY HAVE AGREED IN SUBSTANCE TO VIRTUALLY ALL AUSTRALIAN CONFIDENTIAL

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DEMANDS. THE CANADIANS BELIEVE THAT THEIR 1973 CONSULAR AGREEMENT WAS REACHED FOR MUCH THE SAME REASON, THE PRC WANTED A CONSULATE IN VANCOUVER. LAST YEAR, THE BRITISH APPROACHED FOR PRC FOR A CONSULAR AGREEMENT BUT WERE TURNED DOWN FLAT. THE BRITISH EMBASSY FEELS THE TURNDOWN WAS FOR THE SOLE REASON THAT THE CHINESE DID NOT FEEL A NEED FOR A SECOND POST IN THE UK.

6. FULL TEXT OF THE DRAFT AGREEMENT SUBMITTED BY THE CHINESE IS BEING AIR POUCHED TO THE DEPARTMENT.
WOODCOCK

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Sent Date: 23-Dec-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977PEKING03007
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Expiration:
Film Number: D770478-1169
Format: TEL
From: PEKING
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19771222/aaaaart.tel
Line Count: 106
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
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Office: ACTION EA
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 30-Dec-2004 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 139006
Secure: OPEN
Status: NATIVE
Subject: AUSTRALIAN-PRC CONSULAR AGREEMENT
TAGS: CGEN, CH, AS
To: STATE
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/12becafd-c188-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009